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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JULY 31, 2002

PETITION OF

ROBERT WEINGARTEN,
GERRY R. GINSBERG,
and
LEONARD GUBAR

CASE NO. INS-2001-00062

For issuance of temporary
restraining order, preliminary
injunction and other relief

ORDER

On March 21, 2001, the Petitioners filed their "Petition for Payment and Declaration of Priority Status" seeking, *inter alia*, an order requiring payment from the receivership estate of Fidelity Bankers Life Insurance Company ("Fidelity Bankers") of the sum of \$3.5 million as an administrative expense having priority status under § 38.2-1509, Code of Virginia. On August 8, 2001, the Commission entered a Final Order assigning the Petitioners' claim the priority status of "other creditors" as set forth in § 38.2-1509(B)1(v).

The Supreme Court of Virginia considered the matter on an appeal of right, and determined that the \$3.5 million judgment in favor of Petitioners is entitled to be paid as an expense of the administration of the Fidelity Bankers receivership estate under § 38.2-1509. Accordingly, the Supreme Court of Virginia

remanded the matter to the Commission for further proceedings consistent with its opinion and, on July 24, 2002, the Commission received the mandate to that effect.

IT IS THEREFORE ORDERED THAT:

(1) The Deputy Receiver is directed to pay the Petitioners' \$3.5 million claim as an expense of the administration of the estate under § 38.2-1509 together with the costs taxed to the Deputy Receiver on July 23, 2002.

(2) The papers herein shall be placed in the file for ended causes.